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Republican Policy
Committee

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Legislative Notice

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S. 2285 – Federal Fuels Tax Holiday Act of 2000

Calendar No. 473

Introduced on March 23, 2000, read the second time and placed on the Calendar March 27.

NOTEWORTHY

- Senator Lott filed cloture on the motion to proceed to S. 2285 Tuesday, March 28, 2000. A vote on cloture is likely to occur on Thursday.
- S. 2285 would suspend the 4.3-cent per gallon federal excise tax on gasoline, diesel, kerosene, and aviation fuel, from April 16 to December 31, 2000. This tax was enacted in 1993 as part of President Clinton's budget adopted by a Democrat-controlled Congress.
- In the event the national average price of unleaded regular gasoline rises to $2 per gallon or more, S. 2285 would further suspend *all* federal excise taxes on fuels (retaining only the 0.1-percent portion devoted to Leaking Underground Storage Tanks Trust Fund). [See page 2 for a listing of current federal fuels excise taxes.]
- S. 2285 would guarantee that both the immediate and the triggered excise tax suspensions do not result in a reduction of highway funding this year or any future year.
- The bill includes provisions to ensure that the tax relief provided does not exceed the available on-budget surplus.
- Further, the bill requires the Comptroller General to report by September 30, 2000, on whether the savings resulting from the suspension of fuel taxes had been passed on to consumers.

BACKGROUND

Current Federal Fuels Excise Taxes

Under present law, motor fuels are subject to the following federal excise taxes — gasoline: 18.4 cents per gallon; highway diesel fuel and kerosene: 24.4 cents per gallon; railroad diesel fuel: 4.4 cents per gallon; inland waterway fuel: 24.4 cents per gallon; noncommercial aviation gasoline: 19.4 cents per gallon; noncommercial jet fuel: 21.9 cents per gallon; and commercial aviation fuel: 4.4 cents per gallon.

Energy Prices

Beginning in 1999, crude oil markets tightened as OPEC and several other exporting countries cut production. As a result, crude oil prices have increased dramatically over the past year. According to the Energy Information Administration, prices have risen by $18 per barrel, from $12 per barrel in mid-February 1999 — the lowest prices in nominal terms since 1986 — to more than $30 per barrel recently.

While in real terms, $30 for a barrel of oil is still considerably less than the peak of $79 in 1981, the United States' susceptibility to manipulation by foreign producers has increased over the past two decades. The United States' reliance on foreign sources is up to 56 percent of its crude oil needs. This compares to 35 percent in 1973 when the OPEC oil producers stopped selling oil to America. The Department of Energy estimates our reliance on foreign oil will be 65 percent by 2020.

Clinton/Gore Administration policies have exacerbated our reliance on foreign oil and the recent increase in the price of oil. Under the Clinton/Gore Administration, domestic oil consumption has grown 14 percent, while domestic oil production has decreased by 17 percent. Despite being faced with declining domestic production, the Administration has taken numerous positions which have discouraged domestic energy exploration and production:

- The Clinton/Gore Administration has blocked exploration in the Alaska National Wildlife Refuge (ANWR), which could contain 16 billion barrels of domestic crude oil. In 1995, President Clinton vetoed legislation to allow exploration in ANWR.

- Vice President Gore has vowed to prohibit any future exploration for oil and natural gas on the federal outer-continental shelf (OCS). The President in 1998 closed most of the federal OCS to any exploration until 2012.

- Interior Secretary Bruce Babbitt has advocated taking down valuable hydroelectric dams in the Pacific Northwest — the Administration does not consider hydro power a renewable resource. Electricity from hydro meets about 10-12 percent of U.S. needs.

- Environmental Protection Agency Administrator Carol Browner is trying to shut down coal-fired electric generating plants in the Midwest — a region which depends on those plants for 88 percent of its electricity. The nation as a whole depends on coal for 55 percent of its electricity needs.

Meanwhile, the Clinton/Gore Administration supports the Kyoto Protocol, which would require the United States to vastly reduce its use of fossil fuels like oil, natural gas, and coal in order to achieve reductions in emissions of carbon dioxide — which is not a pollutant under the Clean Air Act. The Senate in July 1997 by a 95-0 vote urged the Clinton/Gore Administration to reject the Kyoto Protocoi.

Finally, Administration policies have directly increased the price of fuel. The Administration proposed an increase in federal energy taxes as part of the 1993 budget process. Initially, the Administration proposed a BTU tax on domestic energy consumption that would have raised the price of oil by more than $3 per barrel and increased energy prices on a family of four by almost $500 per year. This proposal passed the Democrat-controlled House but Republicans in the Senate helped bring about its demise.

As an alternative, the President proposed, and later signed into law, a new 4.3-cent-per-gallon tax on gasoline, diesel fuel, aviation fuel, and kerosene to be imposed on top of the existing fuel excise taxes. The vote in the Democrat-controlled Senate on final passage of the 1993 Omnibus Budget Reconciliation Act, including this new fuel tax, was a 50-50 tie, with Vice President Gore breaking the tie and voting in favor of the legislation (RVA #247, 8/6/93).

For the economy, the current spike in fuel prices is reminiscent of the past three economic downturns — 1973-1975, 1979-1982, and 1989-90 — where slowed growth and bear markets were preceded by sharp increases in the price of fuel. According to economist Larry Kudlow, the current increase in the price of imported oil represents a transfer in wealth from American consumers to oil producing countries amounting to $80 billion — an amount which, in turn, represents almost one percent of national income.

For consumers, higher fuel prices lead to a general increase in retail prices, especially in those markets dependent upon transportation. Over the past year, gasoline prices have increased from a national average of 95 cents per gallon in February, 1999, to over $1.50 this month. Some regional prices are much higher. Premium unleaded gasoline in San Francisco on March 28 cost $2.01.

For truckers, railroads, airlines, and barges, the problem is compounded. At one point, diesel fuel costs exceeded $2.10 per gallon in the Northeast. Nationally, diesel fuel prices have increased dramatically, costing operators hundreds of dollars each time they fill their tanks. In some cases, these costs are passed on to shippers and consumers. In other cases, where operators are locked into long-term contracts, they have to either absorb the cost and operate at a loss or simply not fulfill the contract.

Highway Trust Fund

The 1997 highway bill (TEA-21) changed the manner in which highway funding is determined by creating a direct connection between the revenue flowing into the Highway Trust Fund and the amount Congress appropriates for highway construction and maintenance.

Under TEA-21, revenue estimates for the Highway Trust Fund were included through FY 2003. Highway funding levels are tied to those estimates, but they are updated every year to account for 1) actual revenues from the previous year and 2) updated estimates for the next year's revenues. Net differences between the original estimates and the updated numbers are used to adjust highway funding for the upcoming fiscal year. This adjustment process is commonly referred to as Revenue Aligned Budget Authority, or RABA. These updated estimates are used to adjust the budget firewalls for highway spending as well as highway obligation authority.

The most recent adjustment has already occurred for FY 2001, so the highway funding budget firewalls and obligation authority levels have been set for next year's highway spending. Any new adjustments to revenues flowing into the Highway Trust Fund would not affect highway spending until 2002.

S. 2285 would replace, dollar for dollar, lost revenues to the Highway Trust Fund from on-budget surplus dollars. It does so by taking an amount equal to the revenues lost by suspending the federal fuels tax and crediting that amount to the Highway Trust Fund, as if they actually had been collected. This provision ensures that highway funding for any year will not be affected by the suspension of the federal fuels tax.

BILL PROVISIONS

The following are summaries of the bill's major provisions:

SECTION 1. TEMPORARY REDUCTION IN FUEL TAXES ON GASOLINE, DIESEL FUEL, KEROSENE, AND AVIATION FUEL.

Section 1 would suspend 4.3 cents per gallon of the federal fuels tax for gasoline, diesel, aviation fuel, and kerosene from April 16 to December 31, 2000. For gasoline, this suspension results in a 30-percent reduction in federal taxes per gallon.

Section 1 also provides that, in the event the national average price of a gallon of gasoline reaches $2, as measured by the Department of Energy, all federal fuel excise taxes would be suspended through the end of the year. Note: Suspension would not include the 0.1-percent tax allocated to the Leaking Underground Storage Tank Trust Fund.

In the event that the price of gasoline does rise to $2, Section 1 requires the Director of the Office of Management and Budget to compare the reduction in revenues anticipated from suspending all federal fuels taxes to the estimated on-budget surpluses for FY 2000 and 2001. In the event the revenue loss is larger than the estimated surplus, then the Secretary of Treasury is directed to reduce the excise tax suspension proportionately.

Section 1 ensures that revenues that would otherwise be collected by the suspended excise taxes are counted as having been collected in determining amounts to be appropriated to the Highway Trust Fund and the Airport and Airway Trust Fund.

SECTIONS 2 & 3. FLOOR STOCK TAXES AND REFUNDS

Sections 2 and 3 provide transition rules for implementing the federal fuels tax suspension with regard to inventories of gasoline, diesel, kerosene, and aviation fuel. The bill provides a rebate of federal fuels excise taxes to wholesalers and retailers for fuel inventories held over April 16 on which the excise tax has already been paid. Further, the bill imposes a tax on those inventories held through January 1 on which federal excise taxes have not been paid. The floor stock tax is not imposed on small inventories of fuel (as defined in the bill).

SECTION 4. BENEFITS OF TAX REDUCTION SHOULD BE PASSED ON TO CONSUMERS.

Section 4 expresses the Sense of the Senate that consumers should receive the benefits of the federal fuels tax holiday. The Section also requires the Comptroller General to report by September 30 whether the savings from the federal fuels tax suspension have been passed on to consumers.

ADMINISTRATION POSITION

No official Statement on Administration Policy had been released as of press time.

COST

The Joint Committee on Taxation has estimated that the initial suspension of the 4.3-cent fuels tax will reduce federal revenues by $2.7 billion in FY 2000 and by $1.7 billion in FY 2001.

The JCT is unable to score "triggered" excise tax suspensions, but it estimates that a suspension of all federal fuels taxes from April 16 to December 31 would reduce federal revenues by $11.9 billion in FY 2000 and by $7.2 billion in FY 2001.

POSSIBLE AMENDMENTS

Amendments are anticipated but unknown at this time. An update to this Notice will be issued shortly to address likely amendments.

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